

State of Utah
Title and Escrow Commission Meeting
Meeting Information

Date: February 9, 2009

Time: 9:30am

Place: Alcoholic Beverage Control
Building, 1625 S. 900 W.

Members

(Attendees = x)

Commission Members

xChair, Canyon W. Anderson, <i>Davis Cnty</i>	xDavid M. Lattin, <i>Salt Lake Cnty</i>
xGlen W. Roberts, <i>Utah Cnty</i>	xGarry M. Goodsell, <i>Iron Cnty</i>
xJerry M. Houghton, <i>Tooele Cnty</i>	

Department Staff

xJohn E. "Mickey" Braun, Jr. <i>Ass't Commissioner</i>	xPerri Babalis <i>AG Legal Counsel</i>	xMark Kleinfeld <i>Admin. Law Judge</i>	xTammy Greening <i>MC Examiner</i>
xSuzette Green-Wright <i>MC Director</i>	xSheila Curtis <i>MC Examiner</i>	xSandra Halladay <i>MC Examiner</i>	xJilene Whitby <i>PIO/Recorder</i>

Public

David Moore	Lincoln Scoffield	Clayton Hansen	Chris Jones
Matt Pettey			

MINUTES

Executive Session - 9:28am (Closed to the Public)

General Session – 10:05am (Open to the Public)

- **Welcome and Introductions** / Canyon Anderson, Chair
- **Adopt Minutes of Previous Meeting**
Jerry asked that his name replace Garry's in the fourth bullet under the "Administrative Proceedings" section of the January 12th meeting. Canyon asked that the fourth bullet under the "Review Comment" on R592-13 section of the January 21st minutes say "charged" not "changed." Jerry moved to accept the minutes, Glen seconded the motion and the vote was unanimous.
- **Concur with Licensee Report**
Glen mad a motion to concur with the Licensee Report, Garry seconded the motion. The Commission then discussed modifying the motion to accept the licensee report with the exception of Michael Jensen on the basis that it appeared he had conducted business for 4 years without a license. Glen then made the motion to concur with the Licensee Report and asked the department to investigate Michael Jensen to see if he conducted insurance business during the time he was without a license. Garry seconded the motion and the vote was unanimous in its favor.
- **Number of Cases Open & Closed**
 - Canyon noted that the report showed 8 open and 31 closed cases last month.
 - The 5th column of each page indicates if a violation was been found and if so, the resulting status of each case, if referred to E-case, or administrative action, or to the Fraud Division. The reference to MFTF in 56034 means "multi-agency task force."
 - Canyon commended the department for their quick response to consumer complaints.
 - Perri suggested creating an E-case report of opened and closed cases each month. It should indicate those cases that results in informal actions. Mickey agreed. A Letter of Admonition is an informal action. It may be private or public and is sent to a person whose violation has

not been deemed serious enough to require a formal adjudicative action, like failure to report on time. It does not become a part of the licensee's record. A fine may be charged. Mickey said the Commission had requested they not be involved in these actions so that they may be processed quickly.

- Canyon asked that this report not include actions beyond two years.
- David made the **motion** to approve the Report. Garry seconded the motion and the vote was unanimous.
- **Administrative Proceedings Action**
 - Stipulation and Order - None
 - Request for Hearing - None
- **Old Business**
 - **Review Lot Reservation Bulletin / Glen & Suzette**
 - Jerry said he would like to see the wording in the last Paragraph remain as is. – the purchase price is not always stated. Canyon suggested having the future negotiating price.
 - In the last paragraph Glen suggested deleting “a purchase price for the lost and,” and change “will” to “shall.”
 - Throughout the bulletin the reference to "Title companies" should be changed to "Title producers."
- **New Business**
 - **Discussion of R590-136 & R590-187 / (not previously on the agenda) Canyon**

Canyon questioned the use of the transmittal form that is a part of R590-136. Mickey said that it acts as a check sheet when filing the annual report with the department. David suggested putting it with the rule on the web and on the Commission's web page about rules.
 - **Comments on and Commission Response to R592-13 / Canyon**

Canyon asked how the Commission should respond when they receive comments that include name calling and threats. Glen suggested they not respond. Once we respond to one we need to respond to all of them. It was decided that threatening mail from realtors should be forwarded onto the Real Estate Commission. Perri suggested that Commission members preface their individual responses to inquiries about the intent of the Commission on particular issues to preface their comments with the statement that, "This is my personal opinion. I am not speaking for the Commission."
 - **Mini Escrow Services and Fees / Canyon**
 - Section R592-4-4 should not waive fees or services that are not a part of the minimum escrow charges. Canyon wondered if they should consider charges that were not a part of the minimum escrow charges. Jerry didn't think they could list all of the charges. Garry agreed. Glen didn't want to broaden the scope of the rule. It would put the department back in the business of reviewing rates.
 - Mickey noted that he and Perri needed to cross check title rules to be sure they don't conflict with one another or other department rules. Rules R592-6, Unfair Inducements and Marketing Practices..., and R592-13, Minimum Charges for Escrow Services, need to be reviewed. Glen suggested **putting this on next month's agenda.**
 - Possible changes were discussed to this rule but none were settled on. Mickey suggested waiting to see how the rule will be interpreted and handled in the market. Problems can then be made to the rule if necessary.
 - David Moore said Rules R592-3 and R592-4 need to be repealed and 31A-19a-209 needs to eliminate the requirement to file rates. It was decided that for now a bulletin to this effect should be sent out. **Put on next months agenda.**
 - Jerry wondered if the industry needed to start complying with this rule now. Mickey You can start charging the minimum rate now. Those not charging it after 90 days is up will be in violation of the law. Jerry asked if they needed to be in compliance at the date of the order, the date of the closing or the date funded? Mickey said the settlement date

would be the most reasonable. Glen said the rule trumps whatever agreements are made with the client. Canyon said April 22 was the date the minimum escrow fee must be charged.

- Where there is an exception in the rule or law with the VA or any other organization it should be discussed with the department. Clayton noted that some pass through charges were not an exact dollar amount. How determine what to charge? Glen said they needed to comply with RESPA. It was suggested that they should keep an average of charges and charge an average amount. The days of padding a fee are over.
- Jerry asked what they were to do with Helock loans that state they cannot charge more than \$100 for a closing fee. It was noted that their requirements did not supersede the Commission's rules. We have to charge at least the minimum. Glen said FHA, VA, Freddy Mack are federal laws that will supersede our laws.
- **Other Fees Including Title Services** / Canyon
- **Other Business from Committee Members**
 - Mickey requested they have a conference call on Thursday regarding Rick C. Gates Stip and Order, Jeffrey Scott Breglio's agency exemption, and the Lot Reservation Bulletin. All agreed.
 - Mickey announced that he had been invited to sit on a panel at the ALTA federal meeting in Washington DC on March 3, 2009. The meeting is to discuss the need to collect loss ratio data from the industry. It is simple data, premium volume and losses paid. We could require the information with the annual report. Utah was invited to participate because of the Commission that participates in the title regulatory process.
 - The Real Estate Division and one of the Senators are asking us to explain why R592-13 was issued. Mickey thought the Commission should respond. Glen suggested using the basis of the response on this subject they made to an individual earlier.
 - Commission should **bring bullet point ideas regarding cohabitation** and the **department's observations**.
 - Canyon expressed concern with the expense of frivolous lawsuits and the money that goes towards them.
 - Perri asked that the agenda for Thursday's meeting be put on the web no later than Wednesday at 9am.
 - Glen wondered what happened when Prometric test questions no longer complied with current rules and laws. David Moore said he notifies Prometric about the changes so they can pull the questions from the test. They are qualified to know which questions should be pulled. An individual can appeal a test if the questions don't fit current rules and laws. The test will then be hand checked.
- **Adjourned** at 11:45am
- Jerry announced that he will not be able to attend the meeting in March.
- **Next Meeting:** March 9, 2009, 9a.m., Alcoholic Beverage Control Building, 1625 S. 900 W.

2009 Meetings

Mar 9	Apr 13
May 11	Jun 8
Jul 13	Aug 10
Sep 14	Oct 19
Nov 9	Dec 14